

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**DAVID BAILEY, MARVIN RAY YATES, §  
KEITH COLE, and NICHOLAS DIAZ §  
individually and on behalf of those §  
similarly situated, §  
Plaintiffs, §**

**CIVIL ACTION NO.  
4:14-cv-1698**

**v. §**

**BRAD LIVINGSTON, in his official §  
capacity, ROBERTO HERRERA, in his §  
official capacity, and TEXAS §  
DEPARTMENT OF CRIMINAL §  
JUSTICE, §**

**Defendants. §**

**DEFENDANTS' NOTICE OF APPEAL**

**TO THE HONORABLE JUDGE OF THE DISTRICT COURT:**

Notice is given that Defendants Brad Livingston, in his official capacity, Roberto Herrera, in his official capacity, and the Texas Department of Criminal Justice appeal to the United States Court of Appeals for the Fifth Circuit. Defendants appeal from the district court's Order for Preliminary Injunction, dated June 21, 2016 (DE #477). Defendant is proceeding pursuant to 28 U.S.C. § 1292(a)(1).

Defendants will be the Appellant in the appeal before the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

BRANTLEY STARR  
Deputy First Assistant Attorney General

JAMES E. DAVIS  
Deputy Attorney General for Civil Division

KAREN D. MATLOCK  
Assistant Attorney General  
Chief, Law Enforcement Defense Division

CYNTHIA L. BURTON  
Assistant Attorney General  
Attorney-In-Charge  
State Bar No. 24035455  
So. Id. No. 35273  
[Cynthia.burton@texasattorneygeneral.gov](mailto:Cynthia.burton@texasattorneygeneral.gov)

/s/ Matthew Greer  
MATTHEW J. GREER  
Assistant Attorney General  
State Bar No. 24069825  
So. Id. No. 1171775  
[Matthew.greer@texasattorneygeneral.gov](mailto:Matthew.greer@texasattorneygeneral.gov)

P.O. Box 12548, Capitol Station  
Austin, Texas 78711  
Phone (512) 463-2080  
Fax No. (512) 936-2109

**ATTORNEYS FOR DEFENDANTS LIVINGSTON,  
HERRERA, AND TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE**

### NOTICE OF ELECTRONIC FILING

I, MATTHEW GREER, Assistant Attorney General of Texas, certify that I have electronically submitted for filing a true and correct copy of the above and forgoing **Defendants' Notice of Appeal** in accordance with the Electronic Case Files system of the Southern District of Texas, on this 6th day of July, 2016.

/s/ Matthew Greer

MATTHEW GREER

Assistant Attorney General

### CERTIFICATE OF SERVICE

I, MATTHEW GREER, Assistant Attorney General of Texas, certify that a true and correct copy of the above and foregoing has been served electronically to all counsel or *pro se* parties of record as authorized by FED. R. CIV. P. 5 (b)(2) on 6th day of July, 2016.

/s/ Matthew Greer

MATTHEW GREER

Assistant Attorney General